

**THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

FREDERICK S. MOORE, JR.,)
d/b/a DUB 47 ENTERTAINMENT,)
)
Plaintiff,)
)
v.)
) No. 05-6080-CV-SJ-FJG
MICHAEL CHESTER, ERIC POWELL,)
CITY OF ST. JOSEPH, MISSOURI,)
and ST. JOSEPH, MISSOURI POLICE)
DEPARTMENT,)
)
Defendants.)

ORDER

Pending before the Court is Defendants' Motion to Strike Plaintiff's Amended Complaint (Doc. No. 11).

Plaintiff filed his purported first amended complaint (Doc. No. 10), on September 27, 2005. Fed. R. Civ. P. 15(a) provides, "A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served. . . . Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party. . . ." Plaintiff did not seek leave of Court to file an amended complaint, nor did defendants consent in writing to the filing of plaintiff's amended complaint.¹ Defendants' motion to strike indicates that defendants do not consent to the filing of plaintiff's amended complaint.

¹Defendants already have served a responsive pleading to plaintiff's original complaint. See Doc. No. 5, defendants' answer, filed on August 31, 2005.

Therefore, because plaintiff has not obtained leave of Court or consent from defendants, defendants' motion to strike (Doc. No. 11) shall be **GRANTED**. Plaintiff's purported amended complaint (Doc. No. 10) shall be **STRICKEN**.²

IT IS FURTHER ORDERED that the Clerk of the Court send a copy of this order via regular and certified mail to plaintiff at the following address:

Frederick S. Moore, Jr.
506 S. 20th Street
St. Joseph, Missouri 64502

IT IS SO ORDERED.

/S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge

Dated: October 5, 2005
Kansas City, Missouri

²In the future, if plaintiff wishes to amend his complaint, he should either (1) obtain the written consent of the defendants prior to filing his amended complaint, or (2) file a motion for leave to amend with the Court, attaching a copy of his proposed amended complaint. See Fed. R. Civ. P. 15(a). Leave to amend "shall be freely given when justice so requires." See id.